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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/995,933

11/28/2001

Christopher L. Casler

CASL01NP

2008

23892

7590

02/10/2004

DAVID S ALAVI

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#408

EUGENE, OR 97402

EXAMINER

FINEMAN, LEE A

ART UNIT

PAPER NUMBER

2872

DATE MAILED: 02/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/995,933	CASLER, CHRISTOPHER L.	
	Examiner	Art Unit	
	Lee Fineman	2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is in response to the response filed 4 December 2003. Claims 1-16 are pending.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 4-10, and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keitoku, U.S. Patent No. 5,036,188 in view of Crimmins, U.S. Patent No. 5,103,108 and Harwood, United Kingdom Patent No. GB 1,500,495 A.

Keitoku discloses audio-visual (e.g. TV or stereo, column 1, lines 14-15) remote controlled retail electronic device (figs. 8 and 9) with a plane transparent portion (2) for an infrared receiver (3) as well as a hemispheric lens (figs. 1-4, 6-7) comprising a lens body (11) made from a material substantially transparent at an infrared wavelength received by the receiver, and being used for increasing the acceptance angle over which the infrared signals are received by the infrared receiver (column 2, lines 30-45).

Keitoku is silent as to the transparent hemispheric lens body being fabricated from a dielectric material, in particular acrylic plastic, having a substantially hemispheric concave inner and convex outer surface, having a substantially flat annular surface connecting the inner and

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outer surfaces and an adhesive layer provided on the annular surface for securing the lens to a face of the remote-control device. Crimmins teaches a hemispheric lens 162 for receiving and detecting infrared wavelength, made of acrylic plastic with an adhesive layer for securing it to the face of the device (column 6, lines 50-55) as well as a hemispheric lens (190) having a substantially hemispheric concave inner and convex outer surface and having a substantially flat annular surface connecting the inner and outer surfaces lens. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the lens of Keitoku from a transparent dielectric material, in particular acrylic plastic, and have a substantially hemispheric concave inner and convex outer surface with a substantially flat annular surface connecting the inner and outer surfaces lens as well as an adhesive layer for securing the lens to the face of the device, as suggested by Crimmins, to provide cost savings by using reduced amounts of less expensive materials. Furthermore, it would have been obvious to use a 1/2-inch exterior, 3/8-inch interior diameter lens because those values lie well within a small range one would expect to be associated with structures of the type of Keitoku and Crimmins and such devices would operate in the same manner regardless of size. See *In re Gardner v, TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. Denied, 469 U.S. 830, 225 USPQ 232 (1984); MPEP 2144.04.

Keitoku does not explicitly disclose purchasing or selling the hemispheric lens for retrofitting the remote-controlled electronic retail entertainment device. Harwood teaches a hemispheric lens attachment (figure) that is added (retrofit) to a known device (page 1, lines 75-78) to increase acceptance angles of the device (page 1, lines 23-26). It would have been obvious to one of ordinary skill in the art to retrofit the known device (figs. 8 and 9) of Keitoku with a

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lens like that of Keitoku in view of Crimmins as set forth above, as suggested by Harwood, to increase the acceptance angles of the device. Additionally, it would also have been obvious to obtain the add-on lens by a retail purchase or sale because that is a conventional method of obtaining add-on devices. Furthermore, with regard to claim 9, it would also have been obvious to include instructions for such an add-on lens assembly because it is conventional to include instructions to properly add the element which would result in "instructing" of the end-user as set out in claim 9.

3. Claims 3 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keitoku, in view of Crimmins and Harwood, as applied to claims 1 and 9 above, and further in view of Haddock, U.S. Patent No. 4,912,880 or Takahashi, et al., U.S. Patent No. 4,921,330.

Keitoku, in view of Crimmins and Harwood, as applied to claims 1 and 9 above discloses the claimed invention except for the adhesive layer comprising double-sided adhesive tape. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use double-sided adhesive tape to secure a hemispheric lens of Keitoku in view of Crimmins and Harwood, as applied to claims 1 and 9 above, because the lens and face would have to be secured to one another in some way and double-sided adhesive tape is a well known structure for connecting optical elements, the patents to Haddock et al, see especially column 9, lines 31-35, and Takahashi et al, see especially column 4, lines 59-64, being merely illustrative in that regard.

Response to Arguments

4. Applicant's arguments filed 4 December 2003 have been fully considered but they are not persuasive.

Applicant argues that Harwood with a “known” camera and lens attachment does not teach or suggest retrofitting as claimed in the instant application because the camera and lens are designed to be repeatedly assembled and disassembled and are constructed for that purpose; and a retrofit as claimed is not an intended use of the “known” device and that retrofitting alters the function of the device in a manner not contemplated by the designers or manufactures of the device. The examiner respectfully disagrees with these arguments.

Applicant states that cameras are constructed with specific structures and/or mechanisms for allowing differing lenses to be employed as needed and therefore not a retrofit. However in the figure, the “known” device (2,3,10) is a stand-alone camera with no specific parts to attach any other pieces to itself. The lens attachment has a push-on sleeve which is added without any disassembly of the camera and changes the intended use/alters the function of the “known” camera device in a manner not contemplated by the designers or manufactures of the device (i.e. makes it view/image a wider angle than what was originally designed). Therefore, the addition of the lens attachment is a retrofit based on the definitions used by the applicant and Harwood does suggest retrofitting.

Further, it is noted that features upon which applicant relies (i.e., retrofit lens being not releasable or being permanently affixed) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

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Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lee Fineman whose telephone number is (571) 272-2313. The examiner can normally be reached on Monday - Friday 7:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on (571) 272-23124. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4900.



LAF

January 28, 2004


MARK A. ROBINSON
PRIMARY EXAMINER